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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/288,643

04/09/1999

TAKAO SAWABE

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02/09/2004

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

FLETCHER, JAMES A

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 02/09/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/288,643

Applicant(s)

SAWABE ET AL.

Examiner

James A. Fletcher

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12 January 2004 have been fully considered but they are not persuasive.

In re page 9, applicant's representative states, "Newly-added independent claim 39 differs from the applied art of record at least in that it recites an information record medium combination that includes 'control information [that] includes first division information for identifying a first division unit, second division information for identifying a plurality of second division units by dividing a plurality of audio information as a reproduction unit, and management information for correlating the first division unit and the plurality of second division units with each other so that the plurality of second division units are associated with the first division unit' and that 'the plurality of second division units comprise at least a first type of second division unit which has audio information associated with a first recording method and a second type of second division unit which has audio information associated with a second recording method, and the first type of second division unit and the second type of second division unit include the same content' and 'are recorded at different positions on the audio information recording area.'"

The examiner respectfully disagrees. As noted in the specification, the first division unit is the track number or title of a (typically) DVD recording. Fuchigami discloses a disc recorded to DVD standards. As further noted in the specification, the plurality of second division units are identical audio streams recorded using different

methods. Fuchigami discloses recording program audio in multiple methods, notably PCM and sigma-delta single bit stream. Finally, Fuchigami discloses that the multiple types of audio are recorded in individual packets in the recording, not multiplexed, and therefore occupy separate areas on the recording medium.

For further arguments, please refer to the current office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 39-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuchigami et al (6,160,953).

Regarding claims 39, 43, and 50, Fuchigami et al disclose an information-recording medium, apparatus, and method comprising:

- an audio information recording area on which a plurality of audio information are recorded (Col 3, lines 54-55 “a new stream mode for audio packets that is in addition to existing stream modes for audio packets”); and
- a control information recording area on which control information to reproduce the audio information is recorded (Col 6, lines 54-58 “the encoder apparatus inserts discrimination data into the ADI sections of the audio packets, which indicates that the audio portion of each packet has been recorded using a special stream mode”),

- wherein the control information includes first division information for identifying a first division unit (Col 3, lines 65-67 "data recorded...in a format which is based on the DVD standards"),
- second division information for identifying a plurality of second division units by dividing a plurality of audio information as a reproduction unit (Col 4, lines 36-39 "each of the audio packets includes an ADI portion containing discrimination data specifying that the audio data portion of the audio packet has been recorded in the supplementary stream mode"), and
- management information for correlating the first division unit and the plurality of second division units with each other so that the plurality of second division units are associated with the first division unit (Col 4, lines 18-39 disclose in detail the use of management data to divide the successive portions of a stream of digitally encoded audio data according to the encoding method used for the individual portion of the stream),
- wherein the plurality of second division units comprise at least a first type of second division unit which has audio information associated with a first recording method and a second type of second division unit which has audio information associated with a second recording method, and the first type of second division unit and the second type of second division unit include the same content (Col 5, lines 33-35 "the L and R channel analog audio signals can be conveyed by the 10 data channels as both PCM data and single bit stream data"), and

- wherein the first type of second division unit and the second type of second division unit are recorded at different positions on the audio information recording area (Col 4, lines 18-39 disclose in detail the plurality of audio mode channels that can be recorded on the disk),
- the apparatus and method comprising:
 - a reading device and step which read record information from the record medium (Col 7, lines 33-34 “a playback data stream read from either of the two types of optical recording disk defined above”);
 - a reproduction device and step which reproduce the audio information (Col 7, lines 60-62 “first and second D/A...converter means...for respectively converting the streams of PCM samples”); and
 - a controller which controls the reading device and step, and the reproduction device and step (Col 7, lines 34-35 “mode setting means for selectively setting a PCM decoding mode and a single bit sequence decoding mode”).

Regarding claims 40, 47, and 54, Fuchigami et al disclose a medium, apparatus, and method of information reproduction wherein the management information is provided for each of the second division units (Col 4, lines 36-39 “each of the audio packets includes an ADI portion containing discrimination data specifying that the audio data portion of the audio packet has been recorded in the supplementary stream mode”).

Regarding claims 41, 48, and 55, Fuchigami et al disclose a medium, apparatus, and method of information reproduction wherein the management information includes information which indicates a combination of recording methods (Col 6, lines 19-22 “to provide an indication that the optical recording disk has data recorded in accordance with a special stream mode, discrimination data indicating that fact are recorded within the ADI section of each audio packet”).

Regarding claims 42, 49, and 56, Fuchigami et al disclose a medium, apparatus, and method of information reproduction wherein the first type of second division unit and the second type of second division unit have equal reproduction times (Col 5, lines 33-35 “the L and R channel analog audio signals can be conveyed by the 10 data channels as both PCM data and single bit stream data.” This discloses that the two streams have the same program, and therefore have equal reproduction times).

Regarding claims 44 and 51, Fuchigami et al disclose an apparatus and method of information reproduction wherein the controller selects a recording method to be reproduced, and controls the reproduction device to reproduce one of the first type of second division unit and the second type of second division unit based on the selected recording method (Col 7, lines 34-35 “mode setting means for selectively setting a PCM decoding mode and a single bit sequence decoding mode”).

Regarding claims 45 and 52, Fuchigami et al disclose an apparatus and method of information reproduction comprising:

- an input device which inputs a reproduction condition (Col 18, lines 9-10 “an operating section through which a user of the playback system can input control commands”),
- wherein the controller controls the reproduction device based on the reproduction condition (Col 18, lines 11-12 “a system controller which controls the overall operation of the system”)

Regarding claims 46 and 53, Fuchigami et al disclose an apparatus and method of information reproduction wherein the reproduction condition indicates a recording method to be reproduced (Col 19, lines 31-37 “the system controller sets an operating program...and causes the display section [t]o produce a visible indication that the PCM playback mode is established”).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Fletcher whose telephone number is (703) 305-3464. The examiner can normally be reached on 7:45AM - 5:45PM M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached at (703) 308-9644.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, DC 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only).

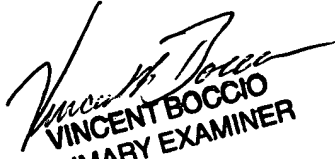
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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

JAF
February 7, 2004


VINCENT BOCCIO
PRIMARY EXAMINER